IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 136 of 2001
For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : YES

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

JAYNARAYAN RAMESHVARDAYAL SHREEVASTAVA
Versus
STATE OF GUJARAT

Appearance:
MR ASIT M MEHTA for Petitioners
Mr. SK Patel APP for Respondent No. 1
Mr. Yatin Soni, for original complainant.

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 20/04/2001

ORAL JUDGEMENT

Liberty is to be secured through process of law, which is administered keeping in mind the interests of the accused, the near and dear of the victim who lost his life and who feel helpless and believe that there is no justice in the world as also the collective interest of the community so that parties do not lose faith in the institution and indulge in private retribution. [Extracted from AIR 1987 SC 1613 in case of Shahzad Hasan Khan v. Ishtiaq Hasan Khan and others]

Heard learned advocate Mr. A. M. Mehta for the

petitioners and learned advocate Mr. S.K. Patel who is appearing for the respondent State and learned advocate Mr. Yatin Soni who has appeared on behalf of the original complainant. He has filed affidavit on behalf of the original complainant Bhavesh Manibhai Parekh for opposing the present application for anticipatory bail filed by the petitioners herein. Copy thereof has been served to the learned advocate Mr. A.M. Mehta for the petitioners as well as the learned APP Mr. S.K. Patel for the State.

2. Petitioner No.1 is residing at Vankaner and is serving as Police Inspector at the Vankaner Police Station whereas the remaining petitioners are also residing at Vankaner and are serving as Police Constable. Annexure "H" to the present petition is the FIR in connection with the incident dated 16th February, 2001 reported before the police station on 17th February, 2001 against the petitioners herein for the offence under section 504, 506 (1) and 114 of the Indian Penal Code and section 13 (c) of the Prevention of Corruption Act. Said complaint has been filed by one Bhavesh Manilal Parekh. In connection with the said complaint filed by Bhavesh M. Parekh, the petitioners herein initially approached the Court of the learned Additional Sessions Judge at Rajkot by filing an application for anticipatory bail under section 438 of the Code of Criminal Procedure which was numbered as Criminal Miscellaneous Application No. 225 of 2001. Said application under section 438 of the Code of Criminal Procedure ("Cr.P.C." for short) was heard and decided by the learned Additional Sessions Judge, Rajkot who, vide his order dated 28th March, 2001 has rejected the said application. Thereafter, the petitioners have filed the present petition for anticipatory bail under section 438 of Cr.P.C.

I have heard the learned advocate Mr. A.M. Mehta for the petitioners. He has submitted that the incident occurred on 16.2.2001; it was reported before the concerned police station on 17th February, 2001 and actually the present petitioners went to Rajkot from Vankaner alongwith the accused Asif to inquire about the gold with Bharatbhai Vijaybhai Soni. Thereafter, upon receipt of the information i.e. name from Bharatbhai, they had gone for further investigation to Manibhai Parekh. According to the complainant, at that time, the present petitioner No.1 had abused, mentally tortured and defamed said Manibhai Parekh, father of the present complainant Bhavesh Manibhai Parekh and compelled the father of the complainant to move on four legs; that they would convert the complainant's father into cock and sit

and would take him from there. It is also alleged against the petitioners that they demanded from the complainant's father an amount of Rs. 10,000/-and threatened that if the said amount is not paid, then, they will immediately take the complainant's father in custody. According to the complainant Bhaveshbhai, in view of the conduct and the torture administered by the petitioners, mental condition of the complainant's father deteriorated and ultimately his father had become unconscious all of a sudden and then died. Learned advocate Mr. Soni appearing for the original complainant has submitted that considering the allegations levelled in the complaint itself, the petitioners have committed offence under section 302, IP Code, however, that section has not been incorporated in the FIR so far.

Learned advocate Mr. Mehta appearing for the petitioners has relied upon the following decisions in support of his submissions :

(1) 1991 Criminal Vol. 1 page 336
(2) 1996 (1) GLR page 703;
(3) 1991 GLH (UJ) 9, in case of Santoshbhai Gunvantrai Kamdar and another;
(4) AIR 1971 SC 520, in case of P. Sirajuddin etc. v. The State of Madras etc.
(5) 1991 (1) (II) Crimes 336 in case of Chandra Earappan which is a judgment of the Karnataka High Court.
(6) 1984 GLH 758, in case of Ashok Daga and Others versus (The) State of Gujarat;
(7) 1998 (1) Crimes 565 in case of Sri Kishan versus State of Haryana which is a judgment of the Punjab and Haryana High Court.
(8) 1998 (1) Crimes 44 in case of P. Karthikeyan versus S. Ananthanarayanan which is a judgment of the Madras High Court.
(9) 1970 GLR page 1015, in case of Tribhovandas Jamnadas Kansara versus State of Gujarat.

Learned advocate Mr. Mehta has submitted that before the sessions court concerned, learned advocate Mr. Daftari had appeared for the original complainant and in such a cases, the private party has no locus standi and yet the concerned sessions court has allowed the private party namely the original complainant and relying upon the submissions made by Mr. Daftari, has rejected the application for anticipatory bail preferred by the petitioners. He has also submitted that the sessions court concerned has not considered the decisions which were cited by the petitioners before him and he has

simply ignored those decisions, by not making mention thereof in the order of rejection of bail. He has also submitted that at the most, it can be said that there are allegations against the petitioners about having committed offence under section 13 sub clause (1) of the Prevention of Anti Corruption Act and in such a cases, normally, the petitioners would be entitled for a regular bail. He has also submitted that the petitioners are the police personnels receiving various awards from the State Government and it is not proper to connect the death of Manilal Parekh in a particular incident. Therefore, the petitioners are entitled to anticipatory bail and the order passed by the concerned sessions court is erroneous and contrary to the law laid down by the apex court as well as this Court.

Learned Additional PP Mr. S.K. Patel appearing for the State as well as the learned advocate Mr. Yatin Soni who has appeared for the original complainant, to assist the prosecution, have opposed the present application for anticipatory bail inter alia on the ground that the investigation is going on and the petitioner No.1 is a Senior PI whereas the remaining petitioners are also the police staff and, therefore, in such circumstances, at this stage, it cannot be said that there is false implication or involvement of the petitioners on bare reading of the FIR lodged against them. Therefore, this court should not exercise its discretion in favour of the petitioners for grant of anticipatory bail.

I have considered the submissions made by the learned advocates for the respective parties. I have considered the averments made in the petition as well as the complaint filed against the petitioners. I have also considered the relevant case papers. Anticipatory bail cannot be granted as a matter of right. It is essentially a statutory right conferred long after the coming into force of the Constitution. It cannot be considered as an essential ingredient of Article 21 of the Constitution and its non application to a certain special category of offences cannot be considered as violative of Article 21. Therefore, in such a circumstances, when the anticipatory bail is not a fundamental right and it has to be considered as a mere statutory right subject to control by the various provisions and also subject to the discretion of the sessions Court and the High court, such discretion has to be exercised judiciously. Considerations which must be kept on the mental screen and precautions which may be taken in disposing of an application for anticipatory

bail under section 438 of the Cr.P.C. require to be spelled out in order that the provision is meaningfully applied and judicial discretion is exercised in an appropriate manner in such matters. As was visualized by the Law Commission sometimes false accusations may be levelled against persons just with a view to cause them embarrassment arising out of the social stigma of an arrest and the circumstances that a man has to remain in jail albeit till he is released on bail. It may also happen that the competent authority may place a person (against whom an accusation of having committed a non bailable offence is levelled) under arrest, say on the eve of a holiday or at a time when the courts are closed. The purpose of section 438 inter alia appears to be secure that such a person is not obliged to go to jail till he is able to move the Court for being released on bail. Section 438 itself is widely worded and does not engraft any limitations on the power of the Court in case a person who has reason to believe that he may be arrested on an accusation of having committed a non bailable offence makes an application invoking the powers of the Court for a direction granting anticipatory bail. Even so, the powers have to be exercised in a judicial manner with the end in view that whilst the object of the provision is served the pitfalls inherent in the situation are eschewed. These provisions can be meaningfully exercised provided it is grasped that;

(1) By the very nature of the proceedings the powers would be invoked during the pendency of an investigation.

(2) The investigation being incomplete it would neither be feasible nor possible to anticipate the material that might be eventually collected.

(3) The Court will not be justified in acting on the hypothesis that no further or more serious material incriminating the accused will be unearthed.

(4) The Court will not exercise the power to enlarge on bail at the stage of pendency of investigation in cases where the Court would be slow to do so after investigations have been completed or closed. In other words, the Court will not be hustled into exercising these powers in cases where the offence is one which is punishable with death or imprisonment for life.

(5) The Court will accord anxious consideration to

the relevant factors such as gravity of the offence, nature of the accusation, likelihood of absconding, likelihood of tampering with evidence etc. (the list is illustrative and not exhaustive).

(6) In cases of economic offences where the likelihood of repetition of the offence whilst on bail cannot be foreclosed such as smuggling, hoarding, profiteering, indulging in manipulations of foreign exchange, etc., the Court will not consider it safe to exercise the powers.

(7) If in rare cases the court consider it unavoidable to pass an order before being able to hear the Public Prosecutor, the Court would have to be careful to expressly and in terms restrict the duration of the order to 2 or 3 days till the Public Prosecutor is heard.

(8) The power cannot be allowed to be invoked in order to defeat, thwart, stall or render impotent, the provisions relating to remand to police custody for the purpose of facilitating investigation. It may, therefore, be specified in the order that the accused is to be released on anticipatory bail provided he is not required to be remanded to the police custody and that if he is so required the police officer would be at liberty to obtain suitable orders from the Court in that behalf either before the arrest or within a reasonable time of the arrest.

(9) The order of anticipatory bail would not be allowed to come in the way of a fuller consideration of the question when the investigation is complete. The order may, therefore, provide that it will exhaust itself on or will remain operative only till the expiry of say ten days from the date of arrest and the accused will have to obtain a fresh order in usual course.

(10) The likelihood of the accused being required to be arrested in connection with some other offence may be anticipated and the order may specify the Crime Register number and the nature and specification of the offence.

(11) To avoid complications, instead of passing an

order of unlimited duration, the order may provide that it will become inoperative if no arrest is made say within 90 days of the order.

(12) All or any of the conditions engrafted in section 438(2) of the Code of Criminal Procedure, 1973 may be incorporated in the order.

The aforesaid proposition has in detail been considered by this Court in case of Somabhai Chaturbhai Patel versus State of Gujarat reported in 1977 GLR page 131.

The apex court, in case of Gurubaksh Singh v. State of Punjab, reported in AIR 1980 SC 1632, has held as under :

"Section 438(1) lays down a condition which has to be satisfied before anticipatory bail can be granted. The applicant must show that he has 'reason to believe" that he may be arrested for a non bailable offence. The use of the expression 'reason to believe" shows that the belief that the applicant may be so arrested must be founded on reasonable grounds. Mere fear is not belief for which reason it is not enough for the applicant to show that he has some sort of a vague apprehension that some one is going to make an accusation against him in pursuance of which he may be arrested. The grounds on which the belief of the applicant is based that he may be arrested for a non bailable offence, must be capable of being examined by the court objectively because it is then alone that the court can determine whether the applicant has reason to believe that he may be so arrested Section 438(1) therefore cannot be invoked on the basis of the vague and general allegations, as if to arm oneself in perpetuity against a possible arrest. Otherwise, number of applications for anticipatory bail will be as large as at any rate, the adult populace. Anticipatory bail is a device to secure the individual's liberty it is neither a passport to the commission of crimes nor a shield to the commission of crimes nor a shield against any and all

kinds of accusations likely or unlikely."

It is also required to be noted that the anticipatory bail cannot be granted unless the proposed accusation appears to be actuated by malafide. In the instant case, it does not prima facie appear that the allegations levelled against the petitioner have been actuated by malafide. It is, thus, clear that the question whether to grant the bail or not would depend for its answer upon variety of circumstances and cumulative effect of which must enter into the judicial verdict. Any one single circumstance cannot be treated as a universal validity or as necessary justifying grant or refusal thereof.

In view of this law which has been considered by the apex court in number of decisions, and also considering the observations made by the learned sessions judge concerned while rejecting the bail application preferred by the petitioners herein, para 9 in particular, as per my opinion, the learned sessions judge concerned has rightly appreciated the object of section 438 of the Code of Criminal Procedure and has rightly considered in its proper perspective while keeping in mind the law laid down by the Hon'ble Supreme Court as well as this Court in number of decisions. In para 9 of the order rejecting the anticipatory bail, the learned sessions judge has observed that the provisions of section 438 of the Code of Criminal Procedure could be applied in a case when the petitioner has been falsely implicated in offence or malafide complaint has been filed against the petitioners just to compel him to surrender to some conditions or some political revenge or to achieve some illegal gain by adopting legal machinery in motion or to cause some harassment without any cause to the petitioner. In such circumstances alone, one can be granted protection under section 438 of the Code of Criminal Procedure and not otherwise. The concerned sessions court has considered the object of section 438 of the Code of Criminal Procedure as well as the allegations made in the FIR and has recorded prima facie finding that the petitioner No.1 is the Sr. PI and has acted in a manner and his conduct has ultimately resulted into death of Manibhai Parekh and, therefore, in such circumstances, anticipatory bail cannot be granted in favour of the petitioners. Therefore, I am of the view that the learned sessions judge concerned was right in rejecting the application for anticipatory bail while keeping in view the object of section 438 of the Code of Criminal Procedure and was also right in coming to the conclusion that there is no false implication and the

filing of the FIR against the petitioners is not the result of any political rivalry or there is no malafide complaint filed by the original complainant against the petitioners.

I have also considered the decisions which learned advocate Mr. Mehta has cited at the Bar. The decision reported in 1970 GLR page 1015 cited by Mr. Mehta is not relating to section 438 of the Code of Criminal Procedure. It relates to the powers of the appellate court under section 520 of the Code of Criminal Procedure. There is no discussion about the powers of the Court under section 438 of the Code of Criminal Procedure. Therefore, the said decision is not helpful to the petitioners and is not applicable in the facts and circumstances of the present case.

As regards the decision reported in 1998 (1) Crimes page 44, cited by learned advocate Mr. Mehta, there is no discussion about section 438 of the COde of Criminal Procedure and therefore, said decision is also not applicable to the facts and circumstances of the present case.

As regards the third decision which has been cited by Mr. Mehta, reported in 1998 (1) Crimes Punjab and Haryana High Court, there, it has been held that when the dispute is civil in nature and the civil suit was already filed for cancellation of the sale deed and the FIR has been filed subsequently, in such circumstances, whether the sale deed is forged or not would be required to be decided by the civil court and in such circumstances, it has been held that the anticipatory bail can be granted. Here, it is not so. Therefore, on facts, this decision is not applicable to the present case.

Then, the next one relied upon by Mr. Mehta is the decision reported in 1991 (1) GLH (UJ) page 9 which is relating to the powers of the High Court and the Court of Sessions in respect of territorial jurisdiction of which the person is likely to be arrested. In the said decision, no principles have been discussed about section 438 of the Code. Therefore, it is also not applicable in the facts and circumstances of the present case.

He has also relied upon the decision reported in 1984 GLH page 758. In the said decision, the view taken by this court under section 438 of the Code is that the provisions of section 438 of the Code would apply before arrest and the person applying must satisfy about the

accusation of non bailable offence. I have considered the said decision. As per my view, the principles laid down in the said decision are not applicable in the facts and circumstances of the present case.

The decision reported in 1980 Criminal Law Journal 1174 Delhi is also not in respect of the object of section 438 of the Code of Criminal Procedure but it is in respect of the FIR registered in Punjab, Delhi Court granting interim bail. Such Court has power also to confirm it. So, that is in respect of the powers of the Court. However, in the facts and circumstances of the present case, this decision also would not apply.

Learned advocate Mr. Mehta has also relied upon the decision of the apex court reported in AIR 1980 SC 1632, in case of Gurubaksh Singh Sibbia etc. v. The State of Punjab. I have considered the principles laid down in the said decision by the apex court. In the present case, as per my view, the petitioners are not able to establish prima facie that the false complaint has been filed against them. The petitioners are also not able to point out even prima facie that there is mala fide complaint as a result of the political rivalry. As per my view, in such circumstances, the powers under section 438 of the Code of Criminal Procedure can not be exercised for granting anticipatory bail. Therefore, in the facts and circumstances of the case, the principles laid down by the apex court in AIR 1980 SC 1632 are not applicable.

Learned advocate Mr. Mehta has also relied upon the decision reported in 1996 (1) GLR 703 wherein this court has considered that even private party and original complainant is also entitled to be heard in person or through lawyer while examining the bail application filed by the petitioner. He has also relied upon the decision of the apex court reported in AIR 1971 SC 520 which is in respect of the Prevention of Corruption Act but in the present case, the offence alleged to have been committed by the petitioner is under section 504, 506(1) and 114 of the Indian Penal Code read with section 13(1) of the Prevention of Corruption Act. Therefore, in the facts and circumstances of the case, the said decision is also not applicable.

He has also relied upon the decision of the Karnataka High Court reported in 1991 (1) Crimes 336 which is in respect of the powers under section 438 of the Code. In the facts and circumstances of the present case, the principles laid down in the said decision is

not applicable.

I have considered the decisions cited by Mr. Mehta but they are not applicable in the facts and circumstances of the present case. I am of the view that the powers under section 438 of the Code of Criminal Procedure, 1973 are discretionary in nature and in the facts and circumstances of the present case, I am of the view that the anticipatory bail cannot be granted in favour of the petitioners herein. I am of the prima facie view that there is no false implication of the petitioners and if the discretion is exercised in favour of the petitioners, then, looking to the status enjoyed by the petitioners in the police department, petitioner no.1 in particular who is a senior PI, investigation which is pending against them would be adversely affected. The petitioners have failed to establish even prima facie that the filing of the complaint against them is the result of political rivalry, malafide and it amounts to harassment to them. Further, investigation is also still going on and in such crucial stage, looking to the status enjoyed by the petitioners herein, petitioner no.1 in particular who is having the post of Sr. PI, anticipatory bail, if granted, would certainly adversely affect the investigation in respect of the FIR which has been filed against the petitioners. I am, therefore, of the opinion that this is not the case where the discretionary powers under section 438 of the Code of Criminal Procedure could be exercised in favour of the petitioners. When the investigation is in crucial stage, in such a situation, normally, the Court should not grant anticipatory bail in favour of the person seeking such relief under section 438 of the Code. That is the view taken by the apex court in case of Mool Chand versus State through the Director, CBI reported in AIR 1992 SC 1618. In para 6 of the report, the apex court has observed as under:

"I bestowed my deep and anxious consideration to the submissions made by both the parties. As the matter is under investigation, I am not inclined to express any opinion on the merits or demerits of the case. Suffice to say that the investigation has to go a long way and hence sufficient time will be required for the investigating agencies to complete the investigations. Further, having regard to the seriousness of the allegations levelled against the petitioner, as pointed out by the Designated Court, the release of the petitioner on bail at this crucial stage may frustrate the effort of

the investigating agencies in collecting evidence. Hence his bail application is dismissed at this stage. However, the investigating agencies are directed to expedite and complete the investigation as expeditiously as possible. The petitioner is permitted to renew the application for bail after two months."

The apex court in case of Pokar Ram versus State of Rajasthan and others reported in AIR 1985 SC 969, has observed as under in para 6 of the report :

"The decision of the Constitution Bench in Gurubaksh Singh Sibbia v. State of Punjab (1980) 2 SCC 565 : (AIR 1980 SC 1632) clearly lays down that the distinction between an ordinary order of bail and an order of anticipatory bail is that whereas the former is granted after arrest and, therefore, means release from the custody of the police, the latter is granted in anticipation of arrest and is, therefore, effective at the very moment of arrest. Unlike a post arrest order of bail, it is a pre arrest legal process which directs that if the person in whose favour it is issued is thereafter arrested on the accusation in respect of which the direction is issued, he shall be released on bail. A direction under S. 438 is intended to confer conditional immunity from the touch as envisaged by S. 46(1) or confinement. In para 31, Chandrachud, CJ clearly demarcated the distinction between the relevant considerations while examining an application for anticipatory bail and an application for bail after arrest in the course of investigation. Says the learned Chief Justice that 'in regard to anticipatory bail, if the proposed accusation appears to stem not from motives of furthering the ends of justice but from some ulterior motive, the object being to inquire and humiliate the applicant by having him arrested, a direction for the release of the applicant on bail in the event of his arrest would generally be made. It was observed that it cannot be laid down as an inexorable rule that anticipatory bail cannot be granted unless the proposed accusation appears to be actuated by mala fides; and equally, that the anticipatory bail must be granted if there is no fear that the applicant will abscond.' Some of the relevant considerations which govern the discretion, noticed therein are the nature and seriousness of the proposed charges, the context

of the events likely to lead to the making of the charges, a reasonable possibility of the applicant's presence not being secured at the trial, a reasonable apprehension that witnesses will be tampered with and "the larger interest of the public or the State", are some of the considerations which the Court has to keep in mind while deciding an application for anticipatory bail. ' A caution was voiced that 'in the evaluation of the consideration whether the applicant is likely to abscond, there can be no presumption that the wealthy and mighty will submit themselves to trial and that the humble and poor will run away from the course of justice, any more than there can be a presumption that the former are not likely to commit a crime and the latter are more likely to commit it."

In para 11 of the aforesaid decision, it has further been observed by the apex court as under:

"Let it be made distinctly clear that status in life, affluence or otherwise, are hardly relevant considerations while examining the request for granting anticipatory bail. Anticipatory bail to some extent intrudes in the sphere of investigation of crime and the court must be cautious and circumspect in exercising such power of a discretionary nature. This case amply illustrates that the power was exercised sub silentio as to reasons or on considerations irrelevant or not germane to the determination."

In case of Bhagirathi Mahapatra v. State, Division Bench of Orissa High Court observed as under:

"These tests are to be applied by the Court while considering an application for anticipatory bail. In addition, the Court must be satisfied that the arrest and detention of the petitioner would be not from motives of furthering the ends of justice in relation to the case, but from ulterior motive, and with the object of injuring the petitioner.

The exercise of the power to grant anticipatory bail should be restricted to exceptional cases, whose facts satisfy the above conditions. Ordinarily, the judiciary should not interfere with the police in matters which are within their

province and into which the law imposes upon them the duty of enquiry. The power to interfere with the discretion of the police at the very earliest stage of an investigation would, therefore, require to be exercised with utmost care. Merely because it is alleged that the petitioner apprehends arrest on a false accusation and that such arrest will be a cause of disgrace and dishonour to him, the Court will not be justified in granting anticipatory bail. The Court has both a right and a duty to satisfy itself that the apprehension is reasonable. If the Court chooses to accept the allegations made in the petition without applying its mind and examining the materials available with the police, the Court will be falling to discharge its duty."

Recently, in case of Prahlad SIngh Bhati versus N.C.T. Delhi and another reported in 2001 AIR SCW 1263, has observed as under in para 8 of the report :

"8. The jurisdiction to grant bail has to be exercised on the basis of well settled principles having regard to the circumstances of each case and not in an arbitrary manner. While granting the bail, the Court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character, behaviour means and standing of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public or State and similar other considerations.It has also to be kept in mind that for the purpose of granting the bail, the Legislature has used the words 'reasonable grounds for believing" instead of "the evidence" which means the court dealing with grant of bail can only satisfy it as to whether there is a genuine case against the accused and that the prosecution will be able to produce prima facie evidence in support of the charge.It is not expected, at this stage, to have the evidence establishing the guilt of the accused beyond reasonable doubt."

Therefore, considering the law which has been laid down by the apex court and also considering various

other decisions cited at the Bar by the learned advocate Mr. Mehta and also considering the averments made in the complaint filed by the original complainant and after considering the observations made by the learned sessions judge concerned, as per my view, this is not the case where the discretion should be exercised in favour of the petitioners for anticipatory bail. Therefore, this petition is required to be rejected.

Before parting with this judgment, it is hereby clarified that the aforesaid observations made in this order have been made for the purpose of considering the present application for anticipatory bail. Therefore, same shall not come in the way of the trial court for considering the application that may be filed by the petitioners for regular bail or at the time of trial and the trial court concerned shall not be influenced by the observations made hereinabove.

In the result, this application is rejected.

20.4.2001. (H.K. Rathod,J.)

Vyas